

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4338

13 **ARUTYUN H. TER MATEVOSYAN,**
14 **a.k.a. ARUTYUN HAROUT**
1280 Boynton Street, #21
Glendale, CA 91205

A C C U S A T I O N

15 Pharmacy Technician Registration
No. TCH 27516

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about October 23, 1998, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 27516 to Arutyun H. Ter Matevosyan, also known as Arutyun
24 Harout (Respondent). The Pharmacy Technician Registration was in full force and effect at all
25 times relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118 , subdivision (b) provides, in pertinent part that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-

1 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
2 with the name and address of the supplier or producer."

3 7. Section 4300 provides in pertinent part, that every license issued by the Board is
4 subject to discipline, including suspension or revocation.

5 8. Section 4301 states, in pertinent part:

6 "The board shall take action against any holder of a license who is guilty of unprofessional
7 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
8 Unprofessional conduct shall include, but is not limited to, any of the following:

9

10 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
11 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
12 whether the act is a felony or misdemeanor or not.

13

14 "(j) The violation of any of the statutes of this state, or any other state, or of the United
15 States regulating controlled substances and dangerous drugs.

16

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency."

11 **REGULATORY PROVISIONS**

12 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

13 "For the purpose of denial, suspension, or revocation of a personal or facility license
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
17 licensee or registrant to perform the functions authorized by his license or registration in a manner
18 consistent with the public health, safety, or welfare."

19 **COST RECOVERY**

20 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
21 law judge to direct a licensee found to have committed a violation or violations of the licensing
22 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
23 case.

24 11. **DANGEROUS DRUGS**

25 a. "Gleevec," is the brand name for Imatinib, used to treat certain types of leukemia and
26 is categorized as a dangerous drug pursuant to section 4022.

27 b. "Valcyte," is an antiviral drug used to treat cytomegalovirus retinitis, and is
28 categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

12. Respondent is subject to disciplinary action under Section 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, Section 1770, in that Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. On or about March 1, 2011, after pleading guilty, Respondent was convicted of one felony count of violating Penal Code section 459 [second degree commercial burglary] and three felony counts of violating Penal Code section 487, subdivision (a) [grand theft of personal property] in the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super. Ct. Los Angeles County, 2011, No. BA380660). Counts one and two related to the theft of prescription drugs on or about January 12, 2011 from Children's Hospital Los Angeles (the hospital), located at 4650 Sunset Blvd., Los Angeles, California, Count 3 related to the theft of prescription drugs on or about December 30, 2010 from the hospital, and Count 4 related to the theft of prescriptions drugs on or about January 5, 2011 from the hospital. The Court sentenced Respondent to serve one day in the Los Angeles County Jail, placed him on three years formal probation, and ordered him to pay restitution to the victim hospital, with other terms and conditions. The circumstances surrounding the conviction are as follows:

13. On or about January 12, 2011, while employed as a pharmacy technician at the hospital, Respondent was observed by an Administrative Support Services Officer, via the surveillance camera, going into the pharmacy stock room and removing two prescription bottles. He was then observed manipulating the bottles, and he appeared to be removing the labels. Respondent took the prescription bottles into the restroom, walked out of the restroom with no medication in hand, and exited the hospital to a public street. Witnesses followed him out of the hospital, stopped him, and asked if he would return to the hospital with them. While they were escorting him back, one of the persons heard a rattling sound coming from Respondent's leg or foot area. Once they were back at the hospital, he was asked to empty his pockets, and he removed a few coins and a pen. They also asked him to lift up his pants from around his ankles,

1 where he was found to have concealed two prescription medication bottles in the sock of his left
2 outer ankle area. One of the bottles contained 400 milligrams of Gleevec and the other 450
3 milligrams of Valcyte. The hospital had an ongoing theft investigation for prior missing
4 prescription medication. Respondent was subsequently arrested by officers of the Los Angeles
5 Police Department for violating Penal Code section 487, subdivision (a).

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Acts Involving Dishonesty, Fraud, or Deceit)**

8 14. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in
9 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
10 substantially benefit himself, or substantially injure another. Complainant refers to, and by this
11 reference incorporates, the allegations set forth above in Paragraphs 12 and 13, as though set forth
12 fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Illegal Possession of Prescription Drugs without a Valid Prescription)**

15 15. Respondent is subject to disciplinary action under Section 4301, subdivision (j) and
16 (o), for violating Section 4060, in that on or about January 12, 2011, Respondent was found to be
17 in possession of prescription drugs, without a valid prescription. Complainant refers to, and by
18 this reference incorporates, the allegations set forth above in Paragraphs 12 and 13, as though set
19 forth fully.

20 **DISCIPLINARY CONSIDERATIONS**

21 16. To determine the degree of discipline, if any, to be imposed on Respondent,
22 Complainant alleges that on or about December 10, 2009, Respondent was convicted of one
23 misdemeanor count of violating Penal Code section 415, subdivision (2) [disturbing the peace] in
24 the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super.
25 Ct. Los Angeles County, 2009, No. 9GN00592). The Court placed him on 12 months probation,
26 with terms and conditions. The circumstances surrounding the conviction are as follows:

27 17. On or about December 27, 2008, a witness saw a male punching a female sitting in
28 the driver's seat, in the upper part of her body, pulling on her hair, and then continue punching

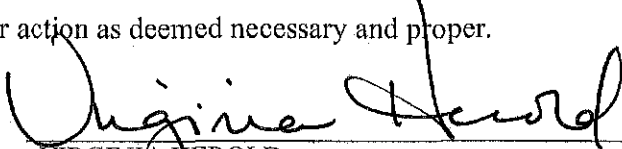
1 her. She could not understand what they were saying because they were speaking loudly in
2 Armenian. The male exited the vehicle and threw a cell phone on the asphalt. He got back in the
3 car and punched the female again several times, and then they drove off in the vehicle. Glendale
4 Police officers went to Respondent's house, and confirmed with Respondent that he had been in a
5 car earlier that evening with his wife. When asked if he hit his wife, he said "no". A police
6 officer asked Respondent if he punched his wife, and he replied "I don't remember, I had a lot to
7 drink." The officers went to Respondent's wife's parents' house, where they found Respondent's
8 wife, and interviewed her about the incident. They found her to be evasive and she denied that
9 her husband had hit her. Both Respondent and his wife admitted to the officers that they had had
10 "a little argument". The officers reviewed text messages on Respondent's cell phone, on or about
11 which contained, among other text messages, a text message from his wife to Respondent which
12 said "I deserve better I need to give my son better he will never learn to drink and beat his wife. .
13 ." Based upon their investigation, the officers believed that Respondent had committed a
14 domestic violence abuse, Respondent was arrested for violating Penal Code section 273.5 [inflict
15 corporal injury on spouse], and transported to the Glendale City Jail.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board issue a decision:

- 19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 27516, issued
20 to Respondent;
21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
22 enforcement of this case, pursuant to section 125.3; and
23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 3/26/13

25 
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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